

THE HONORABLE JOHN H. CHUN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FEDERAL TRADE COMMISSION, et al.,

Plaintiffs,

v.

AMAZON.COM, INC., a corporation,

Defendant.

Case No. 2:23-cv-01495-JHC

**DECLARATION OF SCOTT
FITZGERALD IN SUPPORT OF
AMAZON'S MOTION TO SEAL
AND AMAZON'S RESPONSE TO
PLAINTIFFS' MOTION TO SEAL**

I, Scott Fitzgerald, declare as follows:

1. I am Senior Corporate Counsel at Amazon.com, Inc. I have knowledge of the matters set forth in this declaration, and I could and would competently testify thereto if called to do so.

2. I make this declaration in support of Amazon's Response to Plaintiffs' Motion to Seal, which related to materials attached to Plaintiffs' Motion to Compel the Production of Documents, and in support of Amazon's Motion to Seal Exhibits to Amazon's Opposition to Plaintiffs' Motion to Compel. From the course of my duties and responsibilities, I have knowledge of Amazon's business practices and its treatment of certain types of documents and information as confidential—including the types of documents and information that are at issue in Amazon's

1 Motion to Seal and Amazon's Response to Plaintiffs' Motion to Seal, as discussed in greater detail
2 below.

3 3. Exhibit B attached to Plaintiffs' Motion to Compel was prepared by Amazon's
4 counsel during the FTC's pre-complaint investigation and marked confidential upon its submission
5 to the FTC. The log was created in the interest of cooperation and transparency and as a way to
6 convey information to the FTC during the pre-complaint investigation without producing
7 irrelevant Signal messages. It is a detailed log that identifies and describes Signal screenshots that
8 relate to matters different from the business practices and topics at issue in this case. It includes
9 the dates, participants, and subject matter of each conversation, as well as Signal message settings
10 in each conversation. Public dissemination of this material would likely injure Amazon by
11 publicizing non-public information related to business activities and communications neither
12 relevant nor material to this case, including identification of the subjects that Amazon executives
13 discussed internally over a three-year period, as well as the participants and date ranges, and
14 message settings of each conversation. The same publication also threatens the privacy of
15 Amazon's employees, most of whom were not custodians in the FTC's pre-complaint investigation
16 and have no relevance to the matters at issue before this Court.

17 4. Exhibit E attached to Plaintiffs' Motion to Compel was marked confidential upon
18 Amazon's production of the document during the FTC's pre-complaint investigation. Amazon
19 takes reasonable steps to maintain the confidentiality of these documents. This document includes
20 a discussion of Amazon's negotiating strategy with another large private company. The
21 contemplated business relationship never materialized. The making public of such information
22 would cause Amazon competitive harm by making these considerations available to Amazon's
23 competitors and business partners. Amazon's proposed redactions cover only the commercially
24 sensitive parts of the document, and cover no material on which Plaintiffs rely.

25 5. Exhibits 20, 21, 22, and 23 to Amazon's Opposition to the Motion to Compel were
26 marked confidential upon Amazon's production of the documents during the FTC's pre-complaint

1 investigation. Amazon has taken reasonable steps to maintain the confidentiality of these
2 documents. These documents include internal discussions about Amazon's relationship with the
3 U.S. Postal Service. The publication of such information would cause Amazon competitive harm
4 by making these considerations available to the U.S. Postal Service, to Amazon's competitors, and
5 to Amazon's prospective business partners. Amazon's strategy could then be copied or used by its
6 competitors to obtain a competitive advantage. Amazon's proposed sealing maintains the
7 confidentiality of these commercially sensitive documents while this Court adjudicates Plaintiffs'
8 non-dispositive Motion to Compel. The requested sealing does not withhold any material upon
9 which Amazon relies from the public because Amazon relies only on a general description of these
10 documents in its Opposition.

11 I declare under penalty of perjury under the laws of the United States of America that the
12 foregoing is true and correct.

13 EXECUTED on this 13th day of May, 2024 in Seattle, Washington.

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15 s/ Scott Fitzgerald
16 Scott Fitzgerald
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